Previous references.

J
190 .
(Sep Rev

File No. 19 of 1902-
Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1- 2

Part B. for

SUBJECT.

Refund of excess Stamp duty and penalty recovered on a mortgage-deed executed by Bheeramma etc-

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✓ Sl 1. From the Deputy Commr Bangalore dt- no 1458 D $\frac{8}{20}$ 6.03.

Submits for sanction a refund bill of Rs 6/- on behalf of Beeramma, Siddamma & Muni Beera being the excess stamp duty and penalty recovered on a mortgage deed executed on a rupee stamp paper.

✓ Sl 2. To the Deputy Commr Bangalore dt- G.O. No. 162-3D 21.7.
& Comptroller - Mysore Govt-

~~The~~ Sanctions the above, and forwards to the Comptr

G. R. S. 58 for audit

Mysore Govt Secretariat.
~~Office of the Dewan of Mysore.~~

File No. (if any)

Directions.

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Dep Rev: 19 of 02-03

Office Note.

Branch Revenue

Subject

Letter no: D 1458 of 8.6.03 from the Dy Comr, Bangalore Dist, Submitting for sanction a refund bill in favour of Beeramma, Siddamma and Munni Beera, for Rs 6 being the excess Stamp duty and penalty recovered from them

Note

A mortgage deed mortgaging without possession certain property worth Rs 200/- was executed on a stamp paper of the value of a rupee. It contained a stipulation that if the amount borrowed is not repaid within the stipulated time, the mortgaged property may be taken possession of by the mortgagee. This led the Sub-Registrar to construe the instrument as falling under Article 38 clause (a), and he accordingly impounded it and forwarded it to the Dy Comr for the levy of the deficient duty. The Dy Comr concurred with the Sub-Registrar at first and recovered from the executors the deficient duty and penalty

Sep Rev 19 of 02-03

1902 53 Sl 1

Legislative Branch:-

Please put up a copy of Jagannatha Iyer's edition of the Indian Stamp Act quoted within.

27/6/03.

REVENUE DEPT. G.L.No. JUL 22 1903

From The Dy. Commissioner Bangalore District

To The Secretary to the Govt of Mysore Rev and Genl Depts

Dated 8th } June 1903.
Despatched 20th }
Received

General No.

D No. 1458

Enclosure No One.

Submits for sanction a refund bill for Rs 6, on behalf of Beeramma, Siddamma & Muni Beera being the excess Stamp Duty and penalty levied on a mortgage deed executed on a rupee Stamp paper.

Asst.
22 6 03

23/6/03

MGCPB—50 reams.—6-12-02.

Bangalore District

DN 9 1458
En ai.

Deputy Commissioner's Office

Bangalore 8th June 1903.

From

H. H. Sparkes Esq

Deputy Commissioner

Bangalore District.

To

H. V. Nanjundayya Esq M.A., M.L.

Secretary to the Government of Mysore

General and Revenue Departments.

Sir,

I have the honor to ~~state~~ that a mortgage-deed, mortgaging without possession a certain property for Rs 200/. ~~is~~ is executed on a rupee stamp paper. It contains a stipulation that if the amount borrowed is not repaid within the stipulated time, the mortgaged property may be taken possession of by the mortgagee.

This

This led the Sub-Registrar to consider the present stamps insufficient. He accordingly impounded and sent it to this office for the levy of the deficient duty. On perusing the document and the Sub-Registrar's reference on 29th November 1902, it was thought that the document fell under article 38 clause (a). According to clause (a) of article 38, the proper stamp duty chargeable on the mortgage deed in question is Rs 2/- whereas it was executed on a one-Rupee stamp-paper. Hence a deficient duty of Rs 1/- and a penalty of Rs 5/-, in all Rs 6/- were recovered from the executor and credited in the Bangalore District Treasury on 29th April 1903.

2. On recently perusing the different interpretations of the general clauses

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of article 38, mentioned in pages 305 and 306 of Indian Stamp act, edited by K. Jagannatha Iyer, B.A, B.L, I find that similar instruments are expressly stated by the Calcutta and Bombay High Court Judges to come under clause (b) of the article 38 which treats of mortgage-deeds, mortgaging without possession, as no immediate possession is made over. The stamp duty of Re 1/- is sufficient under clause (b) of article 38 and the excess duty and penalty of Rs 6/- in all, which has already been levied, is unnecessary. It has therefore to be refunded to the party. I therefore enclose, herein, a refund-bill for Rs 6/- and solicit

the

the sanction of Government to the same.

3. The instrument has been certified and returned to the party in order to avoid the inconvenience that might be caused to him by delay in returning it.

I have the honor to be,
Sir
Your most obedient Servant

H. H. Sparkes
Deputy Commissioner.

draft for approval

Read Sep Rev 19 of 02-03
& 2

Letter no: D 4589
8.6.03 from the Dy
Comr, Bangalore Dist.
submitting for sanc-
tion a refund bill
in favour of Beeramma,
Siddamma and Muni
Beera for Rs 6/- being
the amount recovered
from them as deficient
duty and penalty on
a mortgage deed which
was at first regarded
as falling under cl(a)
Article 38 of the Mysore
Stamp Regn, the instru-
ment having subse-
quently been decided
by the Dy Comr to fall
under cl(le), of the same Art.
and the
amount proposed to
be refunded.

Order

order thereon.

The refund bill
is sanctioned and for-
warded to the Comptroller,
Mysore Govt, for audit.

27/6/03

The Dy Comr, Bangalore Dist.

The Comptr, Mysore Govt,
with the bill.